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HUMAN RIGHTS COMMITTEE
Sixty-eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Republic of the Congo

GE.00-41617 (E)

13 April 2000

Concluding observations on the second periodic report of the Republic of the Congo

1. The Committee considered the second periodic report of the Republic of the Congo (CCPR/C/63/Add.5) at its 1813th and 1814th meetings (CCPR/C/SR.1813 and 1814), held on 13 and 14 March 2000, and adopted the following concluding observations at its 1823rd and 1824th meetings (CCPR/C/SR.1823 and 1824), held on 21 and 22 March 2000.

Introduction

2. The Committee welcomed with interest the submission of the second periodic report of the Republic of the Congo and the supplementary written information provided on the period since the submission of that report. It also noted the delegation's commitment to submit additional information on, inter alia, the implementation of the Covenant by the Congolese courts.

3. The Committee expresses its satisfaction at the efforts made by the delegation to provide answers to the questions asked. It regrets, however, that the report was submitted six years late and more as a matter of form, in that it is limited to a description of legal measures and does not refer to any implementation in practice. The Committee regrets that the precise information which it had requested was not fully provided.

4. The Committee notes that the delegation itself acknowledged that, during the civil wars that have raged in the Congo since 1993-1994, serious human rights violations occurred and that peace and reconciliation are now fundamental priorities.

5. The Committee notes the statements on creating conditions conducive to respect for human rights and the functioning of Congolese institutions according to the rule of law. It notes that a constitutional referendum is scheduled for 2000 and presidential elections for 2001.

6. The Committee takes note of the information provided by the delegation on the establishment of a National Human Rights Commission by the end of 2000 and on the organization of a human rights education and awareness campaign.

Main positive aspects

7. The Committee expresses its satisfaction at the return home of more than half the displaced population and hopes that this process, having begun, will be completed as soon as possible.. It also welcomes the return of refugees, and the return to their villages of persons who had taken refuge in the forests.

Principal subjects of concern and recommendations

8. The Committee is gravely concerned at the information provided on summary and extrajudicial executions, disappearances and arbitrary arrests and detentions carried out in the

past seven years not only by the armed forces but also by the militias and other paramilitary groups, as well as by foreign soldiers, in violation of articles 6, 7 and 9 of the Covenant.

The State party should conduct all appropriate inquiries and investigations into these crimes and take the necessary measures for bringing the perpetrators to justice and effectively protecting the right to life and to security of person.

9. The Committee regrets that the precise information which it had requested on the status of women was not fully provided.

The State party should take the necessary steps to increase women's participation, without discrimination, in political and social life, in accordance with article 3 of the Covenant. It should provide fuller information, including statistics, on the status of women in its next report.

10. The Committee is also gravely concerned at the rape of women and the perpetration of other forms of violence against them by armed men, and is disturbed at the extent and persistence of these crimes, in violation of the obligations imposed under articles 3, 7 and 9 of the Covenant.

The State party should give women the necessary protection and assistance, ensure the reintegration of rape victims and do everything possible to identify and prosecute the perpetrators of these crimes.

11. The Committee is concerned at the persistence of polygamy, in violation of articles 3 and 26 of the Covenant.

The State party should take the necessary steps to abolish polygamy and to implement educational measures to prevent it.

12. The Committee observes that the political desire for an amnesty for the crimes committed during the periods of civil war may also lead to a form of impunity that would be incompatible with the Covenant. It considers that the texts which grant amnesty to persons who have committed serious crimes make it impossible to ensure respect for the obligations undertaken by the Republic of the Congo under the Covenant, especially under article 2, paragraph 3, which requires that any person whose rights or freedoms recognized by the Covenant are violated shall have an effective remedy. The Committee reiterates the view, expressed in its General Comment 20, that amnesty laws are generally incompatible with the duty of States parties to investigate such acts, to guarantee freedom for such acts within their jurisdiction and to ensure that they do not occur in the future.

The State party should ensure that these most serious human rights violations are investigated, that those responsible are brought to justice and that adequate compensation is provided to the victims or their families.

13. The Committee is concerned at the use of torture and cruel, inhuman or degrading treatment and at the failure to criminalize torture as such in internal law in such a way that it is no longer possible to treat cases of torture as simple cases of voluntary infliction of blows and wounds.

The State party should take effective measures, in accordance with articles 7 and 10 of the Covenant, to combat torture, to criminalize torture and other cruel, inhuman or degrading treatment or punishment in internal law, to punish the perpetrators of such crimes and, in future, to avoid treating cases of torture as simple cases of voluntary infliction of blows and wounds.

14. The Committee expresses its concern at the attacks on the independence of the judiciary, in violation of article 14, paragraph 1, of the Covenant. It draws attention to the fact that such independence is limited owing to the lack of any independent mechanism responsible for the recruitment and discipline of judges, and to the many pressures and influences, including those of the executive branch, to which judges are subjected.

The State party should take the appropriate steps to ensure the independence of the judiciary, in particular by amending the rules concerning the composition and operation of the Supreme Council of Justice and its effective establishment. The Committee considers that particular attention should be given to the training of judges and to the system governing their recruitment and discipline, in order to free them from political, financial and other pressures, ensure their security of tenure and enable them to render justice promptly and impartially. It invites the State party to adopt effective measures to that end and to take the appropriate steps to ensure that more judges are given adequate training.

15. The Committee notes the precarious conditions of prisoners who are not being held in the central prison of Brazzaville, which are incompatible with article 10 of the Covenant.

The State party should guarantee minimum conditions for all prisoners and should provide them, inter alia, with the necessary medical care.

16. The Committee regrets that the Republic of Congo has maintained its reservation to article 11 of the Covenant.

It calls on the State party to withdraw that reservation, bring articles 386 to 393 of the code of Civil, Commercial, Administrative and Financial Procedure into line with the Covenant and make sure that no one is imprisoned for debt.

17. The Committee is concerned at the violations of secrecy of correspondence in the Republic of the Congo and at the repercussions of such violations.

It reminds the State party of its obligations in that regard under article 17 of the Covenant and requests it to draft rules and procedures to guarantee the secrecy of correspondence and to punish violations of such secrecy.

18. The Committee is deeply concerned at the tendency of political groups and associations to resort to violent means of expression and to set up paramilitary structures that encourage ethnic hatred and incite discrimination and hostility.

The Committee calls on the State party, in accordance with articles 20 and 22 of the Covenant, to take effective steps to combat hatred, violence and discrimination and to impose on all actors and political forces rules of conduct and behaviour that are compatible with human rights, democracy and the rule of law.

19. The Committee is concerned at the increase in the number of at-risk children due, inter alia, to civil wars. It is deeply concerned in particular at the enlistment of children in armed groups and militias.

The State party should redouble its efforts to take care of these children, assist them, ensure them adequate development and adopt measures to afford them the protection required by their status as minors, in accordance with article 24 of the Covenant.

20. The Committee notes with concern that the Congolese people have been unable, owing to the postponement of general elections, to exercise their right to self-determination in accordance with article 1 of the Covenant and that Congolese citizens have been deprived of the opportunity to take part in the conduct of public affairs in accordance with article 25 of the Covenant.

The Committee calls on the State party to organize general elections as soon as possible in order to enable its citizens to exercise their rights under articles 1 and 25 of the Covenant and, thus, to participate in the process of reconstruction of the country.

21. The Committee regrets the lack of specific information on the different ethnic groups in the Congo, particularly the Pygmies, and on measures taken to guarantee, simultaneously, the full and equal enjoyment of their civil and political rights and respect for their rights under article 27, to enjoy their own cultural traditions.

More detailed information on this matter and on the measures taken to protect the rights of persons belonging to minority groups should be provided in the State party's third periodic report.

22. In submitting its third periodic report, which is expected by 31 March 2002, the State party must take into account the consolidated guidelines for State reports (CCPR/C/66/GUI). It must ensure that its third periodic report and the present observations are broadly disseminated. In that report, it must, inter alia, provide information on the said observations and on the follow-up actions taken in that regard.